



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

FEB 11 2015

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Iowa Fertilizer Company (IFCO)
Iowa Fertilizer Company, LLC
Attention: David Pearson: Health, Safety and Environmental Director
3552 180th Street
Wever, Iowa 52658

**Re: Request for Information
Pursuant to Section 308 of the Clean Water Act (33 U.S.C. § 1318)**

IMMEDIATE ATTENTION REQUIRED

Dear Mr. Pearson:

This correspondence concerns the construction site of the Iowa Fertilizer Company in Wever, Iowa. This Site is the location of the construction of a fertilizer plant and associated utilities and transportation routes and pipelines, with an estimated impact of soil disturbance of 369 acres. Stormwater runoff and sediment from the Site flows to adjacent ditches and to the Mississippi River.

The expected time period for IFCO's construction project is from September 2012 through July 2015. On August 31, 2012, IFCO applied for coverage under the Iowa Department of Natural Resources General Permit No. 2 (hereafter, "General Permit") to address and control the potential for stormwater discharges from the construction activities at the Site. On September 1, 2012, IFCO was granted authorization under the General Permit for the construction activities and land disturbance at the Site (Permit Authorization No. IA22467-22231).

On June 25 – 26, 2014, representatives of the U.S. Environmental Protection Agency and the IDNR performed an inspection of the Site to assess compliance with the General Permit, as authorized and applicable to the Site.

The EPA's June 2014 inspection was conducted pursuant to the authority of Section 308 of the Clean Water Act, 33 U.S.C. § 1318. At the close of the inspection, a Notice of Potential Violation was provided by the EPA to IFCO that documented the agency's observed violations of the General Permit. For your reference, a copy of the agency's inspection report for the June 2014 inspection is enclosed without attachments. The purpose of this Request for Information is to obtain additional information so the agency may assess the compliance actions IFCO has taken since the inspection and better evaluate IFCO's compliance with the CWA at the Site.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the agency to require the submission of any information necessary to carry out the objectives of the CWA, 33 U.S.C. § 1251 *et seq.*

Under the authority of Section 308 of the CWA, the agency hereby requires IFCO to provide the information requested in **ENCLOSURE 1** in accordance with **the deadlines and instructions set forth therein.**

Guidance on How to Respond

Please read the instructions included in ENCLOSURE 1 carefully before preparing your responses to this Information Request.

Important Information about This Request for Information and the required Response

Please be advised that the failure to respond accurately, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the agency reserves the right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA, including those discovered as a result of the agency's June 2014 inspection.

The information required by this request must be submitted notwithstanding any claim you may have concerning confidentiality. IFCO may assert a business confidentiality claim with respect to part or all of the information submitted to the agency under the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905, as further described in the enclosed instructions. The agency will consider and process such a request pursuant to such statutes and the agency regulations at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the agency, it may be made available to the public by the agency without further notice to IFCO. Please note that pursuant to 40 C.F.R. § 2.302, effluent data, as defined therein, is not eligible for confidential treatment.

We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this information request, please contact Dr. Delia Garcia of my staff at phone number (913) 551-7262.

Sincerely,



Karen A. Flournoy

Director

Water, Wetlands and Pesticides Division

Enclosures

cc: Iowa Fertilizer Company, LLC
c/o Rick Newman, Registered Agent
700 Walnut Street, Suite 1600
Des Moines, IA 50309

Iowa Fertilizer Company
IFCO Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Ken Hessenius, IDNR
Barb Lynch, IDNR
Deborah Quade, IDNR

ENCLOSURE 1

REQUEST FOR INFORMATION

Re: Iowa Fertilizer Company

This information is requested by the U.S. Environmental Protection Agency, and response required from the Iowa Fertilizer Company (IFCO), pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

This Request for Information is issued to the business entity described as the "Iowa Fertilizer Company" (IFCO), identified as the owner of the Site described in NPDES Permit Authorization No. IA22467-22231, issued by the Iowa Department of Natural Resources (IDNR) on September 1, 2012. This request is also issued to the Iowa Fertilizer Company, LLC (a 489 Foreign Limited Liability Company).

I. Instructions

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.
2. If any response cannot be provided in full, provide the response to the extent possible along with an explanation of why the response cannot be provided in its entirety.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA within ten (10) business days of when the information or documents become known or available. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within ten (10) business days of when you find the information is false or misrepresents the truth.
4. Certification. The Statement of Certification found in ENCLOSURE 2 must be submitted along with your responses. This statement must be made by a person authorized to sign reports pursuant to 40 C.F.R. § 122.22(a). For your convenience, the text of 40 C.F.R. § 122.22(a) is included on ENCLOSURE 2.
5. Confidential Business Information. If you believe any of the requested information is confidential, you may assert a business confidentiality claim under the provisions of 33 U.S.C. § 1318, 18 U.S.C. § 1905, and the regulations at 40 C.F.R. Part 2, and in the manner described at 40 C.F.R. § 2.203(b). Information requested by this letter, however, must be submitted to the EPA regardless of such a claim of confidentiality. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

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6. **Accurate and Truthful Information Required.** Compliance with this information request is mandatory. Please be advised that the failure to respond accurately, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Please be aware that the issuance of this letter and your response with the requested information does not relieve you of any responsibility under the Act for seeking, maintaining, or complying with an applicable NPDES permit.

7. **Submission of Response to Information Request.** All responses to this Information Request must be submitted within TWENTY ONE (21) days of receipt of this letter. Each response should be submitted in a manner that allows you to track delivery, and must be submitted to:

**Delia Garcia, Ph.D.
U.S. Environmental Protection Agency
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, Kansas 66219.**

8. **Requests for Extension of Time to Respond.** If you believe for any reason that you will not be able to send a complete response to this Information Request within 21 days, you may submit a written request for an extension within 14 calendar days of receipt of this letter. When requesting an extension, you must specify which questions you will need additional time to answer. All other responses should be submitted on or before the end of the twenty one day period. For more information, contact Delia Garcia at 913-551-7262.

II. Requested Information

Please submit your response to this Information Request as directed below in Section II, to the address provided in Section I.

Note that except for a cover letter or memorandum 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data may be submitted on a compact disk in PDF, Word, Excel or other widely available electronic format.

1. Request for a complete copy of the Site's Storm Water Pollution Prevention Plan (SWPPP): Part IV of the General Permit states, in pertinent part:

:

"A storm water pollution prevention plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of the storm water discharge from the construction activities. In addition, the plan shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water

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discharge associated with industrial activity for construction activities at the construction site and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit...."

Provide a complete copy of the Site's SWPPP, including all amendments (including all supporting narrative portions, diagrams and maps), as required to be maintained by IFCO by Part IV of the General Permit.

2. Request for copies of site inspection reports: Part IV.D.4 (Inspection) of the General Permit states, in pertinent part:

"Qualified personnel (provided by the discharger) shall inspect disturbed areas of the construction site that have not been stabilized with a perennial, vegetative cover of sufficient density to preclude erosion at least once every seven calendar days. Unless erosion is evident or other conditions....

C. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph IV.D.4.B. of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years after final stabilization has been achieved and a Notice of Discontinuation has been submitted to the Department."

Provide copies of documentation of all site inspections, including copies of all inspection reports that have been prepared by IFCO as required by Part IV.D.4.C of the General Permit, for the period since the EPA inspection on June 25-26, 2014.

3. Request for copies of signed Contractor certification statements: At the time of EPA's inspection ORASCOM E&C USA, Inc. was the general contractor the Site's construction project. Part IV.D.7.B of the General Permit states, in pertinent part:

"B. CERTIFICATION STATEMENT All contractors and subcontractors identified in a storm water pollution prevention plan in accordance with Part IV.D.7.A. of this permit shall sign a copy of the following certification statement before conducting any professional service at the site identified in the storm water pollution prevention plan..."

Provide copies of all signed Contractor Certification statements, as required to have been signed by contractors by Part IV.D.7.B of the General Permit.

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4. Provide a full narrative statement which describes the specific actions that have been taken by IFCO to address the issues identified during the EPA inspection and in the Notice of Potential Violation (NOPV) provided to IFCO at the conclusion of the inspection.
5. Identify all additional BMPs that have been installed by IFCO since the EPA inspection, and fully describe the location and cost of each identified BMP.

ENCLOSURE 2

STATEMENT OF CERTIFICATION
(To be submitted with every response to the Information Request)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Signature

Date

Printed Name

Title

40 C.F.R. § 122.22(a). Signatories to permit applications and reports.

(1) **For a corporation.** By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officer identified in Sec. 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 122.22(a)(1)(ii) rather than to specific individuals.

(2) **For a partnership or sole proprietorship.** By a general partner or the proprietor, respectively; or

(3) **For a municipality, State, Federal, or other public agency.** By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).